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May 6, 2014

## Via ECF & Regular Mail

The Honorable William H. Pauley, III, U.S.D.J.

United States District Court

Southern District of New York

United States Courthouse

500 Pearl Street, Room 1920

New York, NY 10007

Re: Penceal, et al. v. Empire Beauty Schools, Inc., et al.  
Case No. 13-cv-7572 (WHP)

Dear Judge Pauley:

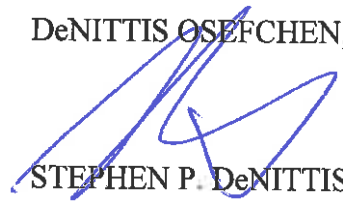
Pursuant to Your Honor's March 26, 2014 Scheduling Order, plaintiffs were to file a Second Amended Complaint on or before May 5, 2014. If Your Honor may recall, to avoid defendants' Motion to Dismiss, plaintiffs had agreed to file a Second Amended Complaint at this early juncture in the case in order to avoid motion practice. Consistent with the Court's March 26, 2014 Order, plaintiffs filed the Second Amended Complaint yesterday, May 5, 2014. While filing via ECF, our office selected the individual plaintiffs for which the Second Amended Complaint was being filed and also selected "all defendants" when filing the Second Amended Complaint.

However, apparently this method of filing was in error. Today, our office received a deficiency notice from the clerk explaining that our office was required to select each defendant separately when filing this Second Amended Complaint. The deficiency notice, which is attached, also notes that since leave to file has now expired, plaintiffs need to seek new leave to file plaintiffs' Second Amended Complaint. Plaintiffs are prepared to file a motion seeking such leave but since Your Honor's rules require letters to the Court prior to filing such notice, plaintiffs thought it prudent to send this letter to Your Honor first.

Plaintiffs respectfully request to be permitted to be granted a few additional days to file plaintiffs' Second Amended Complaint in light of the filing error and to cure the clerk's deficiency notice. If Your Honor prefers to do this by way of formal motion, plaintiffs, in the alternative, request that Your Honor kindly grant leave to permit plaintiffs to file said motion. Plaintiffs apologize for any inconvenience this has caused to the Court.

Respectfully submitted,

DeNITTIS OSEFCHEN, P.C.



STEPHEN P. DeNITTIS

SPD: jra

Encl.

cc: All Counsel of Record (via ECF)

**Stephen Denittis**

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**From:** NYSD\_ECF\_Pool@nysd.uscourts.gov  
**Sent:** Tuesday, May 06, 2014 10:54 AM  
**To:** CourtMail@nysd.uscourts.gov  
**Subject:** Activity in Case 1:13-cv-07572-WHP Penceal et al v. Empire Beauty School, Inc. et al Notice to Attorney Regarding Deficient Pleading

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

**U.S. District Court**

**Southern District of New York**

**Notice of Electronic Filing**

The following transaction was entered on 5/6/2014 at 10:54 AM EDT and filed on 5/5/2014

**Case Name:** Penceal et al v. Empire Beauty School, Inc. et al

**Case Number:** [1:13-cv-07572-WHP](#)

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**\*\*\*NOTICE TO ATTORNEY REGARDING DEFICIENT AMENDED COMPLAINT.** Notice to Attorney Stephen Denittis RE: Document No. [85] Amended Complaint,,,. The filing is deficient for the following reason(s): the wrong party was selected for FILED AGAINST Re-file the document and select the correct party you are filing against. All defendants that are being filed against must be listed separately on the entry. Please note that leave to file has now expired so new leave needs to be granted. (jom)

**1:13-cv-07572-WHP Notice has been electronically mailed to:**

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**1:13-cv-07572-WHP Notice has been delivered by other means to:**